

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Kasey L. Yuhnke,

Plaintiff,

v.

16-CV-001
DECISION AND ORDER

Nancy A. Berryhill,
Acting Commissioner of the
Social Security Administration,

Defendant.

On January 3, 2016, the plaintiff commenced this action. Docket Item 1. On November 23, 2016, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(B). Docket Item 8. On June 9, 2017, the plaintiff moved for judgment on the pleadings, Docket Item 18, and on September 5, 2017, the defendant responded and cross-moved for judgment on the pleadings, Docket Item 22. On January 9, 2018, Judge McCarthy issued a Report and Recommendation finding that the defendant's motion should be granted and that the plaintiff's motion should be denied. Docket Item 23. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1);

Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's Report and Recommendation as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to deny the plaintiff's motion and grant the defendant's motion.

For the reasons stated above and in the Report and Recommendation, the plaintiff's motion for judgment on the pleadings, Docket Item 18, is DENIED; the defendant's motion for judgment on the pleadings, Docket Item 22, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: February 7, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE